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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91211873
Party	Defendant Green Ivy Holdings LLC
Correspondence Address	JOSEPH R. ENGLANDER SHUTTS & BOWEN LLP 200 E BROWARD BLVD STE 2100 FORT LAUDERDALE, FL 33301-1972 ptomail@shutts.com
Submission	Answer
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Date	09/16/2013
Attachments	Answer.pdf(28120 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GREEN IVY EDUCATIONAL CONSULTING, LLC,)	
)	Opposition No.: 91211873
Opposer,)	
)	
v.)	Serial Nos.: 85/775,379
)	85/775,380 and 85/775,382
GREEN IVY HOLDINGS LLC,)	
)	Marks: GREEN IVY,
Applicant.)	GREEN IVY SCHOOLS
<hr style="width:35%; margin-left:0"/>)	GREEN IVY LEARNING

APPLICANT’S ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM
TO OPPOSER’S NOTICE OF OPPOSITION

Attention: TTAB
Commission for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Applicant, Green Ivy Holdings LLC (hereinafter the “Applicant”), hereby files its Answer, Affirmative Defenses and Counterclaim to the Notice of Opposition filed on August 5, 2013 by Green Ivy Educational Consulting, LLC (hereinafter the “Opposer”) and alleges that the Opposition should be dismissed.

In response to Opposer’s allegations, Applicant alleges as follows:

1. Applicant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 1 of the Opposition; therefore, same is denied.

2. Denied.

3. Applicant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 3 of the Opposition; therefore, same is denied as to Opposer's common law rights. Admitted solely that Opposer is listed as the owner of the alleged application for registration of GREEN IVY, Application Serial No. 85/914,217, as found in the USPTO Trademark Electronic Search System.

4. Denied.

5. Admitted that Applicant is the owner of Application Serial Nos. 85/775,379, 85/775,380 and 85/775,382. Denied that Applicant's intent to use is based solely on interstate commerce.

6. Denied.

7. Denied.

8. Denied.

9. Denied insofar that there is any direct association between the parties.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

AFFIRMATIVE DEFENSES

14. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the Opposition.
15. Opposer's alleged use of its GREEN IVY mark does not constitute use in commerce.
16. Applicant's use of its marks will not mistakenly be thought by the public to derive from the same source as Opposer's services, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization and/or approval.
17. Applicant's mark, when used with Applicant's services, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with the Opposer, or as to the origin, sponsorship or approval of Applicant's services by Opposer.
18. Applicant hereby reserves the right that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

WHEREFORE, Applicant respectfully requests the Board reject and dismiss the Opposition, permit the registration of Applicant's proposed marks in U.S. Trademark Application Serial Nos.: 85/775,379, 85/775,380 and 85/775,382, and grant such other and further relief as the Board deems just and appropriate

RESPECTFULLY SUBMITTED this 16th day of September, 2013.

Respectfully submitted,

/Joseph R. Englander/
Joseph R. Englander
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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the Applicant's Answer, Affirmative Defenses and Counterclaim to Opposer's Notice of Opposition has been furnished by U.S. Mail and E-mail delivery to Brian M. Davis, VLP Law Group, LLP, 5960 Fairview Road, Suite 400, Charlotte, North Carolina 28210, bdavis@vlplawgroup.com on 16th day of September, 2013.

Respectfully submitted,

/Joseph R. Englander/
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